

**STATE OF TENNESSEE**  
**OFFICE OF THE ATTORNEY GENERAL**  
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**HERBERT H. SLATTERY, III**  
ATTORNEY GENERAL AND REPORTER

August 25, 2015

David Montgomery Moore, Esq.  
Smith, Gambrell & Russell, LLP  
1230 Peachtree Street N.E., STE 3100  
Atlanta, Georgia 30309

**RE:   Memphis Regional Intermodal Facility (TNR153856)**  
**Response to NS Submittal of Notice of Termination**

David:

On July 20, 2015, TDEC received a certified Notice of Termination from Norfolk Southern (NS)(copy enclosed). In order to maintain consistency in communication, and because my office is already taking the lead on this site, the decision was made for the State's correspondence concerning this issue to be sent over my letterhead. In view of the NOT, and in accordance with Section 8.1.2. of the General National Pollution Discharge Elimination System Permit for Discharges of Stormwater Associated with Construction Activities (CGP), a site visit was conducted on August 5, 2015. Based upon the findings from the site visit, the request for termination of coverage under the general permit is hereby denied by TDEC.

On the submitted NOT form, and cover letter under which it was sent, the NS representative indicated that the "permitted area has a uniform 70% permanent cover OR has equivalent measures such as rip rap or geotextiles, in areas not covered with impervious surfaces." The definition of upon which this statement must be premised articulates that final stabilization means that "a uniform density (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a uniform density of at least 70 percent . . . for the area has been established . . . and all slopes and channels have been permanently stabilized against erosion." The site visit of August 5, 2015, evidences that final stabilization has not been achieved in accordance with the CGP. While the site is mostly stable, a few areas remain that should be addressed, per the enclosed inspection report and accompanying photographs. Once these deficiencies are satisfactorily addressed, NS

Reply To: Office of the Attorney General, Environmental Division  
P. O. Box 20207, Nashville, Tennessee 37202-0207  
Fax: (615) 741-8724

should re-submit the NOT.

Sincerely,



PHILLIP R. HILLIARD  
Senior Counsel  
(615) 741-4612

ENCS: Copy of NOT Submittal received July 20, 2015  
Copy of August 5, 2015, Inspection Report and Photographs

Cc: Edward M. Callaway, Esq., Waller Lansden Dortch & Davis  
Patrick N. Parker, Esq. TDEC-OGC  
Jessica Murphy, TDEC-NCO  
Joellyn Brazile, TDEC-MEFO

**TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

Division of Water Resources

William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 11th Floor, Nashville TN 37243

1-888-891-8332 (TDEC)

**Compliance Inspection for General NPDES Permit for Stormwater Discharges from Construction Activities (CGP)**

<b>Site/Project Name:</b>	<b>Memphis Regional Intermodal Facility (IMF) - Norfolk Southern Railway Company</b>	<b>NPDES Tracking Number:</b>	<b>TNR153856</b>
		<b>Date Coverage was Issued</b>	<b>13-DEC-13</b>
<b>Street Address or Location:</b>	3000 Norfolk Southern Way, Fayette County, Tennessee	<b>Start date:</b>	01-DEC-13
		<b>Estimated end date:</b>	31-OCT-14
<b>Site Description:</b>	Convert temporary sediment control basins into permanent stormwater basins. Continue vegetating areas disturbed during IMF construction.	<b>Latitude (dd.dddd):</b>	35.02694
		<b>Longitude (-dd.dddd):</b>	-89.5733
<b>County(ies):</b>	Fayette	<b>EFO:</b>	Memphis
		<b>MS4 Jurisdiction:</b>	N/A
		<b>Acres Disturbed:</b>	40
		<b>Total Acres:</b>	

**Name of Permittee (Developer/Operator):** Norfolk Southern Railway Company

<b>Name of Official Contact:</b>	Anthony Caruso	<b>Email:</b>	Anthony.Caruso@nscorp.com	<b>Contact Phone:</b>	901-375-9477
<b>Address:</b>	1200 Peachtree St. NE, 7-142	<b>City:</b>	Atlanta	<b>State:</b>	GA
				<b>Zip:</b>	30309

Check List (office & field checks)		Yes	No	Comments
1	Does the site have CGP coverage?	X		
2	Is NOC posted on site?			Not observed
3	Have the site contractors signed the NOI?			Only WCA Land Development had signed onto the coverage
4	Is the current SWPPP available for review?	X		MEFO file copy reviewed
5	Are EPSCs in accordance with SWPPP?			See Comments
6	Are EPSCs installed properly and functional?			See Comments
7	Are inspection reports available on site?			Not observed/not requested
8	Is the proper buffer zone maintained?	X		
9	Inactive areas stabilized in 14 days? (7 days for steep slopes?)			Not complete and stable – see comments
10	Are more than 50 acres disturbed at one time?		X	
11	Has sediment discharged off site?			Not confirmed
12	Has sediment discharged into waters of the State?			Not confirmed
13	Are there unauthorized alterations to waters of the State?		X	
14	Are there violations of an existing ARAP? If so, ARAP No.?		X	
15	Other pollutants/discharges or unusual problems?		X	
16	Project complete & stable; no constr.-related SW discharges?		X	

**General Comments:**

See attached inspection notes and comments.


<b>Routine</b>	<input checked="" type="checkbox"/>	<b>Comprehensive</b>	<input type="checkbox"/>	<b>Complaint</b>	<input type="checkbox"/>	<b>Follow Up</b>	<input type="checkbox"/>	<b>Termination</b>	<input type="checkbox"/>
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<b>On-Site Contact (if available)</b>			
<b>On-Site Contact Name (Print):</b>	<b>On-Site Contact Title:</b>	<b>Signature:</b>	<b>Date:</b>

<b>TDEC Personnel/Information</b>		<b>Memphis Environmental Field Office</b>	
<b>Inspector's Name (Print):</b>	<b>Signature:</b>	<b>Date:</b> August 13, 2015	8383 Wolf Lake Drive Bartlett, Tennessee 38133 Inspector's Phone: 901-371-3028
Cliff Caudle		<b>Time:</b> 04:03 PM	

**SITE NAME:** Norfolk Southern Regional Intermodal Facility  
**LOCATION:** 3000 Norfolk Southern Way, Fayette County, Tennessee  
**SITE ID#:** TNR153856  
**INSPECTION DATE:** August 13, 2015  
**INSPECTION TIME:** 4:03 PM  
**INSPECTORS:** Cliff Caudle, Joellyn Brazile/Tennessee Department of Environment and Conservation (TDEC) Division of Water Resources (Division)  
**OTHERS PRESENT:** Robin Hagerty/AMEC; Anthony Caruso/Norfolk Southern Railroad  
**WEATHER:** ~ 89 °F, partly cloudy

Cliff Caudle and Joellyn Brazile of the Tennessee Division of Water Resources (Division) performed a compliance inspection of the Norfolk Southern Regional Intermodal Facility in Fayette County, Tennessee in response to the submittal of a certified Notice of Termination (NOT). Division personnel were accompanied on the inspection by Ms. Robin Hagerty of AMEC and Mr. Anthony Caruso of Norfolk Southern.

**Observations:**

Areas west of the Loop Track were mostly very well-vegetated, including the area around Outfall 34. Very minor, sporadic gulying was observed, mostly in areas covered by Weeping Love Grass. One area of approximately 100 S.F. was unstable and gullied.

Sediment Basin 2/Permanent Basin 1/Outfall 30 - Weir construction was complete and the basin had been fully converted to post-development detention configuration with no wet storage. The basin was overall very well vegetated.

Sediment Basin 3/Permanent Basin 2/Outfall 31 - Weir construction complete and the basin had been fully converted to post-development detention configuration with no wet storage. The basin was overall very well vegetated.

Bare soil was observed off the gravel turnaround near the southeast corner of Permanent Basin 4 (former Sediment Basin 1) (Photo 1).

The side slopes of Sediment Basin 1/Permanent Basin 4 had minor gulying on some slopes, but were mostly well-vegetated. The low-flow channel had a sandy bottom, possibly mimicking former Stream 5, which previously flowed through this area from southwest to northeast (Photo 2). Erosion, including gullies, was observed around the slotted box outfall structure, particularly on the slope north of the box, under the walkway and around the walkway piers (Photos 3 – 5). Reddish-brown colored staining was observed on the outfall structure indicating sediment-laden water has risen several feet in the basin and possibly discharged toward SW9 and Stream 5. Red staining noted 3-4 feet up the outside of the box outfall structure.

The basin around Pipe 12 was very well vegetated.

As noted in the 2013 inspection, areas south of SR 57 around the Lead Track appeared to be stable with vegetation southward to Outfall 9.

Former Sediment Basin 8, which trends north and south along the east side of the storage tracks, had been decommissioned and converted to a storm water conveyance under the individual permit. The western slope of the conveyance had been stabilized with riprap. From the vicinity of Outfall 9

northward, the slopes were well-stabilized. Channel bottoms below the two outfall pipes at Outfall 9 were bare sand.

The east ditch/conveyance was stable from light pole 132 northward. South of light pole 132, one severe slump/washout (Photo 6) and several minor slump/washouts were observed. The large rip-rap bench/slope repair had been enhanced and enlarged from the original repair.

The area immediately south of the Trailer and Stacking Spaces (concrete) was very well stabilized.

The upper and side slopes of Sediment Basin 4/Permanent Basin 3 had been stabilized and were well-vegetated. The only unstable areas were the sandy bottoms of the low-flow channels in the basin.

Former Sediment Basin 5 was fully converted and very well vegetated.

The site did not appear to meet requirements for termination of permit coverage per section 8 of the Tennessee Construction General Permit (CGP).

## TNR153856 - Norfolk Southern Intermodal Facility Photos

Permit No.:	Site Location:	Permittee:	Date:	Time On-Site
TNR153856	3000 Norfolk Southern Way, Rossville, Fayette Co., TN	Norfolk Southern Railway	August 5, 2015	04:03 PM



Photo No.	Prepared by:	
1	Cliff Caudle	
<b>Description</b> View showing unstable, bare soil on the upper slope near the southeast corner of permanent basin 4 (previously sediment basin 1).		

Photo No.	Photographer	
2	Cliff Caudle	
<b>Description</b> View showing unstable, gullied lower slopes along the low-flow channel in the western arm of permanent basin 4 (previously sediment basin 1).		



## TNR153856 - Norfolk Southern Intermodal Facility Photos



Permit No.:	Site Location:	Permittee:	Date:	Time On-Site
TNR153856	3000 Norfolk Southern Way, Rossville, Fayette Co., TN	Norfolk Southern Railway	August 5, 2015	04:03 PM
Photo No.	Photographer			
3	Cliff Caudle			
<b>Description</b> View northeast toward the north end of permanent basin 4 (previously sediment basin 1). Reddish-brown colored staining was observed on the outfall structure indicating sediment-laden water has risen several feet in the basin and possibly discharged toward SW9 and Stream 5.				

Photo No.	Photographer			
4	Cliff Caudle			
<b>Description</b> View of gullied slopes at the north end of permanent basin 4 (previously sediment basin 1). Reddish-brown colored staining was observed on the outfall structure indicating sediment-laden water has risen several feet in the basin and possibly discharged toward SW9 and Stream 5.				

## TNR153856 - Norfolk Southern Intermodal Facility Photos



Permit No.:	Site Location:	Permittee:	Date:	Time On-Site
TNR153856	3000 Norfolk Southern Way, Rossville, Fayette Co., TN	Norfolk Southern Railway	August 5, 2015	04:03 PM
Photo No.	Photographer			
3	Cliff Caudle			
Description				
View of severe gulying under the walkway to the outfall structure at the north end of permanent basin 4 (previously sediment basin 1).				

Photo No.	Photographer			
6	Cliff Caudle			
Description				
View northeastward showing a major slump/erosion feature in the eastern slope of the east drainage ditch, which trends north – south along the east side of the tracks.				